

Appl. No. : 09/935,316
Filed : August 22, 2001

REMARKS

In the Notice of Non-Compliant Amendment mailed August 8, 2007, the Examiner stated that the Amendment and Response filed May 25, 2007 was non-compliant because the "Amendments To The Claims" failed to meet the requirements of 37 C.F.R. § 1.121. The Examiner stated that proposed claims 30 and 40 include changes to the previously pending claims 30 and 40 which were not properly identified by the required markings. In particular, the Examiner stated that "reapportionment of text into a new line and the addition of indentations to the new lines of text constitute changes to the previous pending claim which have not been identified with the proper markings," citing rule 37 C.F.R. § 1.121(c). *Office Action* at 2.

Applicants note that 37 C.F.R. § 1.121(c)(2), "*When claim text with markings is required*" states that "[t]he text of any added subject matter must be shown by underling the added text." 37 C.F.R. § 1.121(c) (emphasis added). Applicants submit that reapportionment of text into new lines and the addition of indentations are not added text, and therefore underlining is not required to comply with rule 37 C.F.R. § 1.121.

However, solely in the interest of advancing prosecution, Applicants hereby submit "Amendments To The Claims" showing that the text was apportioned into new lines that are indented.

In addition, as indicated in the Amendment and Response filed May 25, 2007, Applicants have amended claims 30 and 40 to delete the phrase "in a single compartment capsule," and added new claims 43-55. Support for these claims can be found throughout the application as filed, for example, at ¶¶[0017], [0040], [0124], [0131]. Applicants submit that no new matter has been added. Claims 30-55 are presented for examination.

Appl. No. : 09/935,316
Filed : August 22, 2001

CONCLUSION

Pursuant to the Notice of Non-Compliant Amendment, Applicants are required to submit only the corrected section of the non-compliant amendment, and not the entire Amendment submitted May 25, 2007. Applicants submit that the corrected "Amendments To The Claims" submitted herewith are compliant with 37 C.F.R. § 1.121, and request entry of the same along with the Amendment and Response filed May 25, 2007.

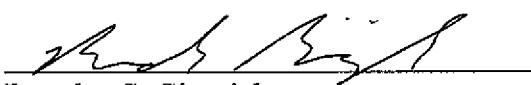
Applicants invite the Examiner to call the undersigned if any remaining issues may be resolved by telephone.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 8/29/07

By: 

Brenden S. Gingrich
Registration No. 60,295
Attorney of Record
Customer No. 55,389
(619) 235-8550

4193228
082707